Gazette No. 2 dated 10th January 1956.

PART I Section ii

NOTIFICATION

HL.5-26137|54|DD. *23rd November 1955.*

The notification No. PFA|Sec.23|F.41-5|55-PH. dated 12th September, 1955 from the Government of India, Ministry of Health, New Delhi is republished for the information of the Public.

By order of His Highness
the Raj Pramukh,

Government Secretariat,
Health 'B' Section,
Trivandrum.

P. M. MATHEW,
Addl. Secretary to Government.

No. PFA|Sec.23|F.41-5|55-PH.

GOVERNMENT OF INDIA

MINISTRY OF HEALTH

New Delhi-2, dated the 12th September, 1955.

NOTIFICATION

In exercise of the powers conferred by sub-section (2) of Section 4 and sub-section (1) of Section 23 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), the Central Government, after consultation with the Central Committee for Food Standards hereby makes the following Rules, the same having been previously published as required by sub-section (1) of Section 23 of the said Act, namely:—

RULES

PART I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) These rules may be called the PREVENTION OF FOOD ADULTERATION RULES, 1955.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

(3) These Rules, other than those contained in Part VI and Part VII shall come into force on the date of their publication in the Official Gazette and the Rules contained in Part VI and Part VII shall come into force on the first day of March, 1956.

2. *Definitions.*—In these rules, unless the context otherwise requires—

(a) "Act" means the Prevention of Food Adulteration Act, 1954 (37 of 1954).

(b) "Director" means the Director of the Laboratory.

(c) "Laboratory" means the Central Food Laboratory.

(d) "Form" means a Form set forth in Appendix A to these rules.

PART II

THE CENTRAL FOOD LABORATORY

3. *Functions.*—In addition to the functions entrusted to the Laboratory by the Act, the Laboratory shall carry out the following functions, namely:—

(a) analysis of samples of food sent by any officer or authority authorised by the Central Government for the purpose and submission of the certificate of analysis to the authorities concerned;

(b) investigations for the purpose of fixation of standards of any article of food;

(c) investigations in collaboration with the laboratories of Public Analysts in the various States for the purpose of standardising methods of analysis.

4. *Analysis of food samples.*—(1) Samples of food for analysis whether under sub-section (2) of Section 13 of the Act or under clause (a) of rule 3 shall be sent either through a messenger or by registered post in a sealed packet, enclosed, together with a memorandum in Form I in an outer cover addressed to the Director.

(2) The container as well as the outer covering of the packet shall be marked with a distinguishing number.

(3) A copy of the memorandum and a specimen impression of the seal used to seal the container and the cover shall be sent separately by registered post to the Director.

(4) On receipt of the packet, it shall be opened either by the Director or by an officer authorised in writing in that behalf by the Director, who shall record the condition of the seal on the container.

(5) After test or analysis, the certificate thereof shall be supplied forthwith to the sender in Form II.

(6) The fees payable in respect of such certificates shall be according to the rates specified by the Central Government.

(7) Certificates issued under those rules by the Laboratory shall be signed by the Director.

PART III

DEFINITIONS AND STANDARDS OF QUALITY

5. Standards of quality of the various articles of food specified in Appendix B to these rules are as defined in that appendix.

PART IV

PUBLIC ANALYSTS AND FOOD INSPECTORS

6. *Qualifications of public analysts.*—A person shall not be qualified for appointment as public analyst unless he—

(i) is a graduate with Chemistry as one of the subjects, of a University recognised for this purpose by the State

Government and has had not less than five years' post-graduate experience in the analysis of food in a laboratory under the control of

(a) a public analyst appointed under the Act, or

(b) a chemical examiner to Government, or

(c) a Fellow of the Royal Institute of Chemistry of Great Britain (Branch E), or

(d) the head of an institution specially approved for the purpose by the State Government; or

(ii) is an M.Sc. in Chemistry, or holds a research degree on the subject, of a University recognised for this purpose by the State Government, and has had not less than two years' post-graduate experience in the analysis of articles of food under the control of

(a) public analyst appointed under the Act, or

(b) a chemical examiner to Government, or

(c) a Fellow of the Royal Institute of Chemistry of Great Britain (Branch E), or

(d) the head of an institution specially approved for the purpose by the State Government; or

(iii) is a graduate in medicine of a University recognised for the purpose by the State Government with a post-graduate qualification in Public Health and with experience in food analysis for at least five years; or

(iv) is a Fellow of the Royal Institute of Chemistry of Great Britain (Branch E) with at least one year's experience of food analysis in India:

Provided that for a period of four years from the commencement of the Act, persons whose qualifications, training and experience are regarded by the State Government as affording, subject to such further training, if any, as may be considered necessary, a reasonable guarantee of adequate knowledge and competence may be appointed as public analysts.

7. *Duties of public analyst*.—(1) On receipt of a package containing a sample for analysis from a Food Inspector or any other person the public Analyst or an Officer authorised by him shall compare the seals on the container and the outer cover with specimen impression received separately and shall note the condition of the seals thereon.

(2) The public analyst shall cause to be analysed such samples of articles of food as may be sent to him by food inspector or by any other person under the Act.

(3) After the analysis has been completed he shall forthwith supply to the person concerned a report in Form III of the result of such analysis.

8. *Qualifications of a Food Inspector*.—A person shall not be qualified for appointment as Food Inspector unless he—

(i) is a medical officer in charge of the health administration of a local area, or

(ii) is a graduate in medicine, or a licentiate in medicine, or

(iii) is a holder of qualification in sanitary science registrable as an additional qualification by the State Medical Council, or Health Officers Examination certificate, or possesses qualifications prescribed by the respective State Governments for appointment of sanitary inspectors or health inspectors:

Provided that for a period of four years from the date on which the Act takes effect, persons whose qualifications, training and experience are regarded by the State Government as affording, subject to such further training, if any, as may be considered necessary, a reasonable guarantee of adequate knowledge and competence may be appointed as food inspectors.

9. *Duties of Food Inspector.*—It shall be the duty of the food inspector.—

(a) to inspect as frequently as may be prescribed by the Food (Health) Authority or the local authority all establishments licensed for the manufacture, storage or sale of an article of food within the area assigned to him;

(b) to satisfy himself that the conditions of the lecenses are being observed;

(c) to procure and send for analysis, if necessary, samples of any articles of food which he has reason to suspect are being manufactured, stocked or sold or exhibited for sale in contravention of the provisions of the Act or rules thereunder;

(d) to investigate any complaint which may be made to him in writing in respect of any contravention of the provisions of the Act, or rules framed thereunder;

(e) to maintain a record of all inspections made and action taken by him in the performance of his duties, including the taking of samples and the seizure of stocks, and to submit copies of such record to the health officer or the Food (Health) Authority as directed in this behalf;

(f) to make such enquiries and inspections as may be necessary to detect the manufacture, storage or sale of articles of food in contravention of the Act or rules framed thereunder;

(g) to stop any vehicle suspected to contain any food intended for sale or delivery for human consumption;

(h) when so authorised by the health officer having jurisdiction in the local area concerned or the Food (Health) Authority, to detain imported packages which he has reason to suspect contain food, the import or sale of which is prohibited; and

(i) to perform such other duties as may be entrusted to him by the health officer having jurisdiction in the local area concerned or the Food (Health) Authority.

10. *Form of order not to dispose of stock.*—Where the food inspector decides to keep under sub-section (4) of Section 10 of the Act in the safe custody of the vendor any stock of food which appears to him to be adulterated or misbranded, he shall after sealing the stock make an order to the vendor to that effect in Form IV; and the vendor shall comply with such order.

11. *Form of receipt for food seized by a food inspector.*—For every article of food seized and carried away by a food inspector under sub-section (4) of Section 10 of the Act, a receipt in Form V shall be given by the food inspector to the person from whom the article was seized.

12. *Form of intimation of purpose of taking sample.*—Where a food inspector takes a sample of an article of food for the purpose of analysis, he shall intimate such purpose in writing in Form VI to the person from whom he takes the sample.

13. *Power of food inspector to deal with carriers of disease-handling food.* (1) Where the food inspector is of the opinion that any person engaged in selling or manufacturing any article of food is suffering from or harbouring the germs of any infectious diease, he may examine or cause to be examined such person:

Provided that where such person is a female above the age of eight years she shall be examined by a woman duly authorised by the food inspector.

(2) If on such examination the food inspector finds that such person is suffering from any such disease, he may by order in writing direct such person not to take part in selling or manufacturing any article of food.

PART V

SEALING, FASTENING AND DESPATCH OF SAMPLES

14. *Manner of sending samples for analysis.*—Samples of food for the purpose of analysis shall be taken in clean dry bottles or jars or in other suitable containers which shall be closed sufficiently tight to prevent leakage, evaporation, or in the case of dry substance, entrance of moisture, and shall be carefully sealed.

15. *Bottles or containers to be labelled and addressed.*—All bottles or jars or other containers containing samples for analysis shall be properly labelled and the parcels shall be properly addressed. The label on any sample of food sent for analysis shall bear.—

(a) Serial No.

(b) Name of the sender with official designation, if any.

(c) Name of the vendor.

(d) Date and place of collection.

(e) Nature of article submitted for analysis.

(f) Nature and quantity of preservative, if any, added to the sample.

16. *Manner of packing and sealing the samples.*—All samples of food sent for analysis shall be packed, fastened and sealed in the following manner, namely:—

(a) The stopper shall first be securely fastened so as to prevent leakage of the contents in transit.

(b) The bottle jar or other container shall then be completely wrapped in fairly strong thick paper. The ends of the paper shall be neately folded in and affixed by means of gum or other adhesive.

(c) The paper cover shall be further secured by means of strong twine or thread both above and across the bottle, jar or other container, and the twine or thread shall then be fastened on the paper cover by means of sealing wax on which there shall be at least four distinct and clear impressions of the seal of the sender, of which one shall be at the top of the packet, one at the bottom and the other two on the body of the packet. The knots of the twine or thread shall be covered by means of sealing wax bearing the impression of the seal of the sender.

17. *Containers of samples how to be sent to the public analyst.*—The container of sample for analysis shall be sent to the public analyst by registered post or railway parcel or air freight, or by hand in a sealed packet, enclosed together with a memorandum in Form VII in an outer cover addressed to the public analyst.

18. *Memorandum and impression of seal to be sent separately by post.*—A copy of the memorandum and a specimen impression of the seal used to seal the packet shall be sent to the public analyst separately by post.

19. *Addition of preservatives to samples.*—Any person taking a sample of any food for the purpose of analysis under the Act may add a preservative as may be prescribed from time to time to the sample for the purpose of maintaining it in a condition suitable for analysis.

20. *Preservative in respect of milk cream and gur.*—The preservative used in the case of samples of any milk (including skimmed and separated milk), cream and gur in liquid or semi liquid form shall be the liquid commonly known as "formalin" that is to say, a liquid containing about 40 per cent of formaldehyde in aqueous solution, in the proportion of one drop for one ounce of the sample.

21. *Nature and quantity of the preservative to be noted on the label.*—Whenever any preservative is added to a sample, the nature and quantity of the preservative added shall be clearly noted on the label to be affixed to the container.

22. *Quantity of sample to be sent to the public analyst.*—The quantity of sample of food to be sent to the public analyst| Director for analysis shall be as specified below:—

Article of food.	*Approximate quantity to be supplied.*
1. Milk	8 oz.
2. Ghee	4 oz.
3. Butter	4 oz.
4. Khoa	4 oz.
5. Dahi	8 oz.
6. Edible oils	4 oz.
7. Edible fats	4 oz.
8. Tea	4 oz.
9. Atta	8 oz.
10. Wheat flour	8 oz.
11. Gur	8 oz.
12. Cane sugar	8 oz.
13. Honey	4 oz.
14. Prepared food	16 oz.
15. Aerated water	12 oz.

PART VI

Colouring Matter

23. *Unauthorised Addition of colouring matter prohibited.*—The addition of a colouring matter to any article of food except as specifically permitted by these rules, is prohibited.

24. *Extraneous addition of colouring matter to be mentioned on the label.*—Where an extraneous colouring matter has been added to any article of food there shall be written on the label attached to any package of food so coloured a statement in capital letters as below:—

25. *Use of caramel permitted.*—Notwithstanding provisions of rule 24 caramel may be used without label declaration.

26. *Natural colouring matters which may be used.*—The following natural colouring matters may be used in or upon any article of food:—

(a) Cochineal or Carmine,

(b) Carotin & Carotenoids,

(c) Chlorophyll,

(d) Lactoflavin,

(e) Caramel, or

(f) Annatto.

27. *Addition of inorganic matters and pigments prohibited.*—Inorganic colouring matters and pigments shall not be added to any article of food.

28. *Coal Tar dyes which may be used.*—No coal tar dyes except the following shall be used in foods:—

(a) Indigotine (F.D.C. Blue No. 2).

(b) Orange I (F.D.C. Orange No. 1).

(c) Amaranth (F.D.C. Red No. 2).

(d) Erythrosine (F.D.C. Red. No. 3).

(e) Tartrazine (F.D.C. Yellow No. 5).

29. *Use of permitted synthetic organic colours or coal tar dyes prohibited.*—Use of permitted synthetic organic colours or coal tar dyes in or upon any food other than those enumerated below is prohibited:—

(a) Ice-cream including mixed ice-cream,

(b) Dairy products except milk, dahi, butter, ghee, Chhana, Condensed milk, cream and baby foods.

(c) Smoked fish,

(d) Egg preparations,

(e) Sweets including pastry and confectionery,

(f) Fruit products as per specifications under Fruit Products Order.

(g) non-alcoholic beverages except Tea, Coco and Coffee.

30. *Maximum limit of permissible colours.*—The maximum limit of permissible colour which may be added to any food shall be one grain per pound of food.

31. *Colours to be pure.*—The colours specified in rule 28 when used in the preparation of any article of food shall be pure and free from any harmful impurities.

PART VII

Packing and Labelling of Foods

22. *Contents of the label.*—Unless exempted by the Act or any of the rules thereunder, every label shall include—

(a) the name, trade name, or description of food contained in the package;

(b) the name and business address of the manufacturer or importer, or vendor, or packer;

(c) Where any permissible preservative is present a statement of the nature and quantity or proportion of such preservative;

(d) where any permissible colouring and|or flavouring is present the declaration of such colouring and|or flavouring;

(e) the net weight, or number of measure, or volume of the contents as the case may require;

(f) a batch number.

33. *Declaration to be printed.*—The declaration required under these rules shall be printed in dark block types upon a light coloured ground in English, Hindi (in Devnagri script) and at least one of the chief languages of the State,

34. *Declaration to be surrounded by line.*—There shall be a surrounding line enclosing the declaration and where the words "unfit for babies" are required to be used there shall be another such line enclosing these words.

35. *Distance of surrounding line.*—The distance between any part of the words "unfit for babies" and the surrounding line enclosing these words shall not be less than one-sixteenth of an inch.

36. *Size of the types used for declaration.*—The type used for the declaration shall not in any part, be less than one-eighth of an inch in height:

Provided that where the size of the package does not permit use of a type of one-eighth of an inch, letters of proportionately reduced size may be used:

Provided further that the type used for the words "unfit for babies" shall not be less than twice the height of any part of the declaration.

37. *Labels not to contain false or misleading statements.*—A label shall not contain any statement, claim, design, device, fancy name or abbreviation which is false or misleading in any particular concerning the food contained in the package, or concerning the quantity or the nutritive value or in relation to the place of origin of the said food.

38. *Labels not to contain reference to Act or rules contradictory required particulars.*—The label shall not contain any reference to the Act or any of these rules or any comment on, or reference to, or explanation of any particulars or declaration required by the Act or any of these rules to be included in the label which directly or by implication, contradicts, qualifies or modifies such particulars or declaration.

39. *Labels not to use words implying recommendation by medical profession.*—There shall not appear in the label of any package containing food for sale the words "recommended by the medical profession" or any words which imply or suggest that the food is recommended, prescribed, or approved by medical practitioners.

40. *Unauthorised use of words showing imitation prohibited.*—There shall not be written in the statement or label attached to any package containing any article of food the word "imitation" or any word or words implying that the article is a substitute for any food, unless the use of the said word or words is specifically permitted under these rules.

41. *Imitations not to be marked pure.*—The word "pure" or any word or words of the same significance shall not be included in the label of a package that contains an imitation of any food.

42. *Form of Labels.*—(A) Coffee Chicory Mixture:

(i) Every package containing a mixture of coffee and chicory shall have affixed to it a label upon which shall be printed the following declaration:

Coffee blended with chicory	
This mixture contains:	
Coffee	per cent
Chicory	per cent

(ii) The label shall not bear any misleading expression such as "French coffee".

(iii) The business address of the manufacturer should also be printed at the bottom of the label.

(B) Condensed Milk or Desiccated (Dried) Milk: (i) Every package containing condensed milk or desiccated (dried) milk shall bear a label upon which is printed such one of the following declarations as may be applicable or such other declaration substantially to the like effect as may be allowed by the State Government.

(a) In the case of condensed full cream milk (Unsweetened).

> CONDENSED FULL CREAM MILK
>
> (UNSWEETENED)
>
> This tin contains the equivalent of
> (x) . . . . pints of
> of milk

(b) In the case of condensed full cream milk (Sweetened).

> CONDENSED FULL CREAM MILK
>
> SWEETENED
>
> This tin contains the equivalent of
> (x) . . . . pints of
> milk, with sugar added

(c) In the case of condensed skimmed milk (unsweetened).

CONDENSED MACHINE-SKIMMED MILK OR CONDENSED SKIMMED MILK (UNSWEETENED)
UNFIT FOR BABIES
This tin contains the equivalent of (x)................ pints of milk

(d) In the case of condensed skimmed milk (sweetened).

CONDENSED MACHINE-SKIMMED MILK OR CONDENSED SKIMMED MILK (SWEETENED)
UNFIT FOR BABIES
This tin contains the equivalent of (x)................ pints of milk with sugar added.

(e) In the case of desiccated (dried) full cream milk:

DRIED FULL CREAM MILK
This tin contains the equivalent of (x)................ pints of milk

(f) In the case of dessicated (dried) partly skimmed milk:

DESICCATED (DRIED) PARTLY SKIMMED MILK
Should not be used for babies EXCEPT under medical advice
This tin contains the equivalent of (x)................ pints of cream milk

(g) In the case of desiccated (dried) skimmed milk:

> DESICCATED (DRIED) SKIMMED MILK
>
> UNFIT FOR BABIES
>
> This tin contains the equivalent of (x) . . . . pints of skimmed milk

(ii) The declaration shall in each case be completed by inserting at (x) the appropriate number in words and in figures, for example, "one and half (1½)", any fraction being expressed as eighth, quarters or a half as the case may be. For the purpose of deciding the equivalent of pints of milk or skimmed milk under these rules, 'milk' means milk which contains not less than 12.4 per cent of total milk solids (including not less than 3.6 per cent of milk fact) and 'skimmed milk' means milk which contains not less than 9 per cent of milk solids other than milk fat.

(iii) There shall not be placed on any package containing condensed milk or desiccated (dried) milk any comment on, explanation of, or reference to either the statement of equivalence, contained in the prescribed declaration or on the words "Machine skimmed", "skimmed" or "unfit for babies" except instructions as to dilution as follows—

"To make a fluid not below the composition of fresh milk or skimmed milk or cream milk (as the case may be) with the contents of this package, add (here insert the number of parts) of water by volume to one part by volume of this condensed milk or desiccated (dried) milk."

(iv) Wherever the word "milk" appears on the label of package of condensed skimmed milk or of desiccated (dried) skimmed milk as the description or part of the description of the contents, it shall be immediately preceded or followed by the word "Machine skimmed" or "skimmed" or "partly skimmed" as the case may be.

(C) Ice-Cream—Every dealer in ice cream or mixed ice-cream who, in the street or other place of public resort, sells or offers or exposes for sale, ice-cream or ice-candy from a stall or from a cart, barrow or other vehicle, or from a basket, phial, tray or other container used without a staff or a vehicle, shall have his name and address along with the name and address of the manufacturer, if any, legibly and conspicuously displayed on the stall, vehicle or container, as the case may be.

43. Notice of addition, admixture or deficiency in food—

(1) Every advertisement and every price of trade list or label for an article of food which contains an addition, admixture or deficiency shall describe the food as containing such addition, admixture or deficiency and shall also specify the nature and quantity of such addition, admixture or deficiency. No such advertisement or price or trade list or label attached to the container of the food shall contain any words which might imply that the food is pure.

(2) Every package, containing a food which is not pure by reason of any addition, admixture or deficiency shall be labelled with an adhesive label, which shall have the following declaration—

DECLARATION

This (a)............ contains an admixture of not more than (b).......... per cent of (c)

(a) Here insert the name of food.

(b) Here insert the quantity of admixture which may be present.

(c) Here insert the name of the admixture or the name of the ingredient which is deficient.

Where the context demands it, the words 'contains an admixture of' shall be replaced by the words 'contains an addition of' or 'is deficient in'.

(3) Unless the vendor of a food containing an addition, admixture or deficiency, has reason to believe that the purchaser is able to read and understand the declaratory label, he shall give the purchaser, if asked, the information contained in the declaratory label by word of mouth at the time of sale.

(4) Nothing contained in this rule shall be deemed to authorise any person to sell any article of food required under the Act or these rules to be sold in pure condition, otherwise than in its pure condition.

PART VIII

Prohibition and Regulating of Sales

44. *Sale of certain admixtures prohibited.*—Notwithstanding the provisions of rule 43 no person shall either by himself or by any servant or agent sell—

(a) cream which has not been prepared from milk or which contains less than 40 per cent of milk fat,

(b) milk which contains any added water,

(c) ghee which contains any added matter not exclusively derived from milk fat,

(d) skimmed milk (fat abstracted) as milk,

(e) a mixture of two or more edible oils as an edible oil,

(f) vanaspati to which ghee has been added,

(g) any article of food which contains or in the preparation of which artificial sweetener has been used,

(h) turmeric containing any foreign substance.

45. *Food resembling but not pure honey not to be marked honey.*—No person shall use the word honey or any word, mark, illustration, or device that suggests honey on the label or any package of, or in any advertisement for, any food that resembles honey but is not pure honey.

46. *Sale or use for sale of admixtures of ghee or butter prohibited.*—No person shall sell or have in his possession for the purpose of sale or for use as an ingredient in the preparation of an article of food for sale a mixture of ghee or butter and any substance (a) prepared, in imitation of or as a substitute for ghee or butter, or (b) consisting of or containing any oil or fat which does not conform to the definition of ghee:

Provided where a mixture prohibited by this rule is required for the preparation of an article of food, such mixture shall be made only at the time of the preparation of such article of food.

47. *Addition of Saccharin to be mentioned on the label.*—Saccharin may be added to any food if the container of such food is labelled with an adhesive declaratory label, which shall be in the form given below:

This . . . . contains an admixture of
(Name of food)
not more than . . . . per cent of saccharin. Exclusively meant for use by diabetic patients or persons suffering from obesity or where sugar is contra-indicated.

48. *Use of flesh of naturally dead animals or fowls prohibited.*—No person shall sell or use as an ingredient in the preparation of any article of food intended for sale, the flesh of any animal or fowl which has died on account of natural causes.

PART IX

CONDITIONS FOR SALE AND LICENCE

49. *Conditions for sale.*—(1) Every utensil or container used for manufacturing, preparing or containing any food or ingredient of food intended for sale shall be kept at all times in good order and repair and in a clean and sanitary condition. No such utensil or container shall be used for any other purpose.

(2) No person shall use for manufacturing, preparing or storing any food or ingredient of food intended for sale, any utensil or container which is imperfectly enamelled, or imperfectly tinned or which is made of such materials or is in such a state as to be likely to injure such food or render it noxious.

(3) Every utensil or container containing any food or ingredient of food intended for sale shall at all time be either provided with a tight-fitting cover or kept closed or covered by a properly fitting lid or by a close fitting cover or gauze, net or other material of a texture sufficiently fine to protect the food completely from dust, dirt and flies and other insects.

(4) No utensil or container used for the manufacture or preparation of, or containing any food or ingredient of food intended for sale shall be kept in any place in which such utensil or container is likely by reason of impure air or dust or any offensive, noxious or deleterious gas or substance or any noxious or injurious emanations, exhalation, or effluvium, to be contaminated and thereby render the food noxious.

(5) A utensil or container made of the following materials or metals, when used in the preparation of food shall be deemed to render it unfit for human consumption:

(i) containers which are rusty;

(ii) enamelled containers which have become chipped and rusty;

(iii) copper or brass containers which are not properly tinned; and

(iv) containers made of aluminium containing an admixture of lead.

50. *Conditions for Licence.*—(1) No person shall manufacture, sell, stock, distribute or exhibit for sale any of the following articles of food except under a licence—

(a) milk or skimmed milk or separated milk,

(b) milk products, including khoa, cream, rabri, dahi, etc.

(c) ghee,

(d) butter,

(e) charbi,

(f) edible oils,

(g) waste ghee,

(h) sweetmeats and savoury,

(i) aerated water,

(j) articles made out of flour including biscuits and other bakery products, or

(k) any other article of food (except the fruit products covered under Fruit Products Order), which the State Government by notification specify.

(2) The State Government or the local authority shall appoint licensing authorities.

(3) A licensing authority may with the approval of the State Government or the local authority by an order in writing delegate the power to sign licences and such other powers as may be specified in the order to any other person under his control.

(4) If articles of food are manufactured, stored or exhibited for sale at more than one place, separate application shall be made, and a separate licence shall be issued, in respect of each such place:

Provided that this shall not apply to itinerant vendors who have no specified place of business and who will be licensed to conduct business in a particular area within the jurisdiction of the licensing authority.

(5) Before granting a licence for manufacture stock or exhibition of any of the articles of food in respect of which a licence is required, the licensing authority shall inspect the premises and satisfy itself that it is free from sanitary defects The applicant for the license shall have to make such alteration in the premises as may be required by the licensing authority for the grant of a licence.

(6) Any person to whom a licence is granted for manufacturing, storing or selling ghee, butter or both, shall not be granted a licence to manufacture, store, or sell either waste ghee or hydrogenated vegetable oil or dharbi within the radius of a furlong from the place of his business and *vice versa*.

(7) Proprietors of hotels and restaurants who sell or expose for sale savouries, sweets or other articles of food shall put up a notice board containing separate lists of the articles which have been cooked in ghee, edible oil, hydrogenated vegetable oils and other fats for the information of the intending purchasers.

(8) Oils which are declared as not intended for human consumption or have been denatured, shall not be manufactured, stored or sold in the same premises where edible oils are manufactured, stored or sold.

(9) No licensee shall employ in his work any person who is suffering from infectious, contagious or loathsome disease.

(10) No person shall manufacture, store or expose for sale or permit the sale of any article of food in any premises not effectively separated to the satisfaction of the licensing authority from any privy, urinal, sullage, drain or place or storage of foul and waste matter.

(11) All vessels used for the storage or manufacture of the articles intended for sale shall have proper covers to avoid contamination.

(12) Every manufacturer or wholesale dealer in butter, ghee, hydrogenated vegetable oils, edible oils, and other fats shall maintain a register showing the quantity manufactured, received or sold and the destination of each consignment of the substances sent out from his manufactory or place of business, and shall present such register for inspection whenever required to do so by the licensing authority.

(13) An itinerant vendor granted a licence under these rules shall carry a metallic badge showing clearly the licence number and the nature of the article for the sale of which the licence has been granted.

(14) The nature of articles of food for the sale of which a licence is required under these rules shall be mentioned in the application for licence. Any objectionable, ambiguous or misleading trade name shall not be approved by the licensing authority.

(15) Every licensee who sells any food, shall, display a notice board containing the nature of the articles which he is exposing or offering for sale.

51. *Duration of licences.*—A licence shall, unless sooner suspended or cancelled will be in force for such period as the State Government may prescribe:

Provided that if application for a fresh licence is made before the expiry of the period of validity of the licence, the licence shall continue to be in force until orders are passed on the application.

APPENDIX A

FORM I

[(*See Rule 4 (1)*)]

(MEMORANDUM TO THE DIRECTOR, CENTRAL FOOD LABORATORY)

From

. . . .

. . . .

To

The Director,
Central Food Laboratory,
. . . .
. . . .

No. dated the . . . . 19 . . . .

MEMORANDUM

I send herewith, under the provisions of Section 13(2) of the Prevention of Food Adulteration Act, 1954, sample (s) of a food purporting to be . . . . for test or analysis and request that a report on the result of the test or analysis may be supplied to this Court.

1. Distinguishing No. on the container and outer covering . . . .
2. Particulars of offence alleged . . . .
. . . .
3. Matter on which opinion required . . . .

A fee of Rs. . . . . has been deposited in Court.

Magistrate.

APPENDIX A—(*Contd.*)

FORM II

[(*See Rule 4* (5)]

(CERTIFICATE OF TEST OR ANALYSIS BY THE CENTRAL FOOD LABORATORY)

Certified that the sample (s), bearing number . . . . purporting to be a sample|samples of . . . . received on . . . . with Memorandum No. . . . . dated . . . . from . . . . has|have been tested|analysed and that the result|results of such test (s)|analysis is|are stated below.

. . . .

. . . .

2. The condition of the seals on the container and the outer covering on receipt was as follows:

. . . .

. . . .

Director,
Central Food Laboratory.

Place:
Date:

If opinion is required on any other matter, suitable paragraph (s) may be added.

FORM III

[*See Rule 7* (3)]

REPORT BY THE PUBLIC ANALYST

Report No. . . . .

I hereby certify that I. . . . . Public Analyst for . . . . duly appointed under the provisions of the Prevention of Food Adulteration Act, 1954, received on the . . . . day of . . . . 19 . . . . from . . . . a sample of . . . . for analysis, properly sealed and fastened, and that I found the seal intact and unbroken.

I further certify that I have analysed the aforementioned sample, and declare the result of my analysis to be as follows:—

. . . .

. . . .

and am of the opinion that . . . .

. . . .

Signed this . . . . day of . . . . 19 . . . .

(Signature)
Public Analyst.

Address . . . .

. . . .

FORM IV

(*See Rule 10*)

Whereas** . . . . intended for food which is in your possession appears to me to be adulterated|misbranded

Now therefore under sub-section (4) of Section 10 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), I hereby direct you to keep in your safe custody the said sealed stock subject to such orders as may be issued subsequently in relation thereto.

Food Inspector.

Date . . . . *Area* . . . .

. . . .

**Here give the name of article of food.

FORM V

(*See Rule 11*)

The stock of articles of food detailed below has this day been seized by me under the provisions of sub-section (4) of Section 10 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) from the premises of . . . .

situated at . . . .

Details of article of food seized.

Food Inspector.

Date . . . . *Area* . . . .

. . . .

FORM VI

(*See Rule 12*)

To

. . . .

. . . .

. . . .

I have this day taken from the premises of . . . . situated at . . . . samples of the food specified below to have the same analysed by the public analyst for . . . .

Details of food.

Food Inspector.

Date . . . . *Area* . . . .

APPENDIX A—(*Concld.*)

FORM VII

(*See Rule 17*)

MEMORANDUM TO PUBLIC ANALYST

From

. . . .
. . . .
. . . .

To

The Public Analyst,

. . . .
. . . .
. . . .
. . . .

No. . . . . Dated the . . . . 19 . . . .

Memorandum

The sample described below is sent herewith for analysis under clause (b) of sub-section (1) of Section 10 and|or clause (c) (ii) of sub-section (1) of Section 11 of the Prevention of Food Adulteration Act, 1954.

1. Serial No. of the sample:
2. Name of the vendor:
3. Date and place of collection:
4. Nature of article submitted for analysis:
5. Nature and quantity of preservative, if any, added to the sample.

2. A copy of this memo and a specimen impression of the seal used to seal the packet of sample is being sent separately by registered post|by hand*.

Food Inspector.

Area. . . . .

*Strike out whichever is not applicable.

APPENDIX B.

(See rule 5)

DEFINITIONS AND STANDARDS OF QUALITY.

A.01. Beverages-Non-alcoholic.

A.01.01. Aerated water, other than soda water, means potable water sweetened with sugar impregnated with carbon dioxide or oxygen or with both, under pressure with or without admixture of salts of sodium, magnesium or calcium, singly or in combination, with or without Citric Acid and of the permitted flavouring and colouring substances, if any, and shall not contain tartaric acid or phosphoric acid or other mineral acid or any lead or other poisonous metal, or any other added substance.

Aerated water shall be deemed to be below the standard of purity if it is manufactured from water which is unfit for drinking purposes or if ice manufactured from such water is inserted in it.

A.01.02. Soda water shall be potable water impregnated with carbon dioxide or oxygen or with both, under pressure with or without admixture of salts of sodium, magnesium or calcium, singly or in combination, and shall not contain any lead or other poisonous metal or any other added substance.

Soda water shall be deemed to be below the standard of purity if it is manufactured from water which is unfit for drinking purposes or if ice manufactured from such water is inserted in it.

A.02. Baking Powder means a combination capable, under conditions of baking, of yielding carbon dioxide, and consists of sodium bicarbonate, and acid-reacting material, starch or other neutral material.

The acid-reacting material of baking powder shall be

(a) tartaric acid or its salts, or both

(b) acid salts of phosphoric acid,

(c) acid compounds of aluminium, or

(d) any combination of the foregoing.

When tested, baking powder shall yield not less than 10 per cent of its weight of carbon dioxide.

A.03. Starchy Foods.

A.03.01. Arrow Root means the separated and purified starch from the rhizomes of the plant known as Maranta arundinacea.

A.03.02. Tapioca globules known as Tapioca sago or Sabudana means the edible starchy product of the roots of the tapioca plant (Manihot utilissima) and shall be free from lime, talc or any other non-starchy foreign ingredients.

A.04. Asafoetida means the oleo-gum-resin obtained from the resin obtained from the rhizome and root of ferula foetida,

Ferula rebricaulis and other species of Ferula. It shall contain no sand, gravel or other foreign mineral matter, colophont resin, galbonum resin, ammoniacum resin or any other foreign resin; the ash shall not exceed 20 per cent of its weight; and the alcoholic extract (with 90 per cent alcohol) shall be not less than 25 per cent.

A.05.01. Turmeric (Haldi) means the dried rhizome or bulbous root of plants of genus Curcuma and species longa and includes turmeric in whatsoever form. It shall be free from damage by insect pest, from lead chromate and other artificial colouring matter, and shall not contain more than 2.5 parts per million of lead. It shall conform to the following standards:

(a) Moisture shall not be more than 10 per cent.
(b) The characteristic boric acid test shall be positive,
(c) Total ash shall be not more than 7 per cent,
(d) Ash insoluble in Hcl shall not exceed 1.5 per cent.

A.05.02. Cumin seed (Cuminum cyminum) shall not contain

(a) more than 5 per cent of foreign seeds,
(b) more than 9.5 per cent of total ash, and
(c) more than 1.5 per cent of ash insoluble in Hcl.

A.05.03. Caraway (Carum carvi) seeds shall not contain

(a) more than 5 per cent of foreign seeds,
(b) more than 8 per cent of total ash, and
(c) more than 1.5 per cent of ash insoluble in Hcl.

A.05.04. Cinnamon means the dried inner bark of Cinnamomum zeylanicum. Powdered cinnamon shall not contain any cassia nor any other foreign vegetable substance. It shall contain not more than eight per cent of total ash and not more than two per cent of ash insoluble in hydrochloric acid and shall contain not less than 0.5 per cent of volatile essential oil.

A.05.05. Cloves means the dried flower-buds of Eugenia Caryophyllata. They shall not contain any exhausted or partly-exhausted cloves, nor any foreign vegetable or mineral substance nor more than five per cent by weight of clove stems. It shall contain not less than 15% of volatile other extract, not more than 7% of total ash and not more than 0.5% of ash insoluble in Hcl.

A.05.06. Coriander is the dried fruit of the coriander plant, and shall not contain more than 7 per cent of total ash, and 1.5 per cent of ash insoluble in hydrochloric acid.

A.06. Bean means dry kidney shaped or flattened seeds of the leguminous varieties used as food, either whole or prepared as dhall. It shall not contain hydrocyanic acid exceeding 20 parts per million as determined by A.O.A.C. Maceration method.

A.07. Sweetening Agents.

A.07.01. Cane Sugar is the crystalized sugar obtained from sugar-cane, beet-root, etc. and includes the refined product obtained from gur.

It shall contain not more than 0.7 per cent of ash, not more than 1.5 per cent of water and not less than 96.5 per cent of sucrose.

A.07.02. Bura shall contain not less than 96.5 per cent of total sugar expressed as sucrose and should contain not more than half per cent of its weight as insoluble ash. It should be free from all poisonous matter. In the case of Khandsari the minimum sugar content in term of sucrose should be not less than 90 per cent.

A.07.03. Honey means the food derived entirely from the work of bees operating upon the nectar of flowers and other sweet exudation of plants. It shall not contain more than (a) 25 per cent of moisture (b) 0.5 per cent of ash, and (c) 10 per cent of sucrose. The minimum reducing sugar content shall be 60 per cent Fiche's test should be negative.

A.07.04. Ice-candy means the frozen ice produce containing sugar, with or without the addition of the permitted colouring or flavouring substances.

A.08.. Coffee.

A.08.01. (1) Coffee (green, raw or unroasted) means the seed of Coffee Arabica, Coffea liberica or Coffea robusta; freed from all but a small portion of its spermoderm by decortication.

(2) Roasted Coffee means properly cleaned green coffee which has been roasted to a brown colour and has developed its characteristic aroma.

(3) Ground Coffee means the powdered product obtained from 'roasted Coffee' only and shall be free from husk.

(4) Coffee (green, raw or unroasted), 'roasted coffee' and 'ground coffee' shall be free from any artificial colouring, flavouring, facing, extraneous matter or glazing substances and shall be in sound, dry and fresh condition free from rancid or abnoxious flavour.

(5) Coffee (green, raw or unroasted), 'roasted coffee' and 'ground coffee' shall conform to the following analytical standards:—

(i) Total ash (determined on the sample dried to constant weight at 100°C), shall be feathery white or bluish-white in colour and shall be not less than 3.5 per cent and not more than 5.0 per cent by weight of which not less than 65 per cent shall be soluble in boiling distilled water. The ash insoluble in hot dilute Hcl shall be not more than 0.1 per cent.

(ii) The alkalinity of the ash per gramme of dried coffee shall be equivalent to not less than 3.4 ml. and not more than 4.4 ml. of N|10 acid.

(iii) The caffeine content, as obtained by standard methods, shall be not less than 1.2 per cent.

(iv) The aqueous extract (determined by extraction of 2 grams of the sample dried to constant weight at 100°C with 100 ml. of boiling distilled water for one hour under reflux) shall be not less than 25 per cent and not more than 32 per cent.

A.08.02. Chicory means the dried and roasted root of Cichorium intybus linn.

A.08.03. Coffee Chicory mixture of Coffee mixed with chicory or Coffee and chicory shall be pure ground coffee mixed with roasted and ground chicory and shall be in sound, dry and dust free condition with no rancid or obnoxious flavour.

Any tin or other receptacle containing a mixture of coffee and chicory shall not bear any misleading expression such as 'French coffee'.

A.09. Curry Powder— Curry powder shall contain not less than 85 per cent by weight of condiments and spices belonging to the group of aromatic herbs and seeds such as black-pepper, cinnamon, cloves, coriander, cardamom, chillies, cumin seeds, fenugreek, garlic, ginger, mustard, poppy seeds, turmeric, mace, nutmeg, curry leaves, white pepper, saffron and aniseeds, and shall contain not more than 15 per cent by weight of farinaceous matter and salt. If the manufacturer includes any spices, condiments, or any substance other than the aromatic herbs and seeds enumerated, the exact nature of such added ingredient or ingredients shall be specified on the wrapper or label prominently and such additions shall be made in lieu of, or partial replacement of farinaceous material and|or salt quota. The aromatic seeds and herbs enumerated constitute the proper ingredients and one or more than one, or all of these may be used at the discretion of the manufacturer in the preparation of the curry powder.

A.10. Edible Fat.

A.10.01. Beef fat or suet means fat obtained from a beef carcass. It shall have a Saponification value varying from 193 to 200 and an Iodine value from 35 to 46.

A.10.02. Mutton fat means fat obtained from the carcass of sheep. It shall have a Saponification value varying from 192 to 195 and an Iodine value from 35 to 46.

A.10.03. Goat fat means the rendered fat from Goat. It shall have a Saponification value varying from 193 to 196 and an Iodine value from 36 to 45.

A.10.04. Lard means the rendered fat from hogs and shall not contain more than one per cent of substances other than fatty acids and fat. It shall have a Saponification value varying from 192 to 198 and an Iodine value from 52 to 65.

A.11. Milk and Milk Products.

A.11.01. Milk means the normal clean and fresh secretion obtained by complete milking of the udder of a healthy cow, buffalo, goat or sheep during the period following at least 72 hours after calving or until colostrum free whether such secretion has been processed or not.

A.11.01.01. Cow Milk shall contain not less than 3.5 per cent of milk fat, except in Orissa, where it shall be not less than 3 per cent and in Punjab and PEPSU where it shall be not less than 4.0 per cent. The milk solids other than milk fat, shall be not less than 8.5 per cent.

A.11.01.02. Buffalo Milk shall contain not less than 5.0 per cent of milk fat except in Delhi, Punjab, PEPSU, Uttar Pradesh, Bihar, West Bengal, Assam, Bombay and Saurashtra where it shall be not less than 6 per cent. The milk solids other than milk fat, shall be not less than 9 per cent.

A.11.01.03. Goat or Sheep milk shall contain not less than 3.0 per cent of milk fat except in Madhya Pradesh, Punjab, PEPSU, Bombay, Uttar Pradesh and Travancore-Cochin where it shall not be less than 3.5 per cent. The milk solids other than milk fat, shall be not less than 9 per cent.

Where milk, other than skimmed milk, is sold or offered for sale without any indication as to whether it is derived from cow, buffalo, goat, or sheep, the standard prescribed for buffalo milk shall apply.

A.11.02. Skimmed milk means milk from which all or most of the milk fat has been removed by mechanical or any other process and includes "separated milk" or "machine skimmed milk". The milk solids other than milk fat, shall be not less than 8.5 per cent.

A.11.03. Butter-milk means the product obtained after removal of butter from curds by churning or otherwise.

A.11.04. Toned Milk shall be prepared by toning milk with fresh separated milk or with separated milk reconstituted from spray dried skimmed milk powder.

It shall contain not less than 3.0 per cent of milk fat and 8.5 per cent of milk solids other than milk fat.

A.11.05. Butter means the product prepared exclusively from the milk or cream of cow or buffalo, or both, with or without the addition of salt and annatto and shall contain not less than 80 per cent of milk fat and not more than 16 per cent of moisture. No preservative is permissible in butter.

A.11.06. Dahi or curd (a) Whole milk dahi or curd means the product obtained from fresh whole milk either of cow or buffalo by souring. It shall not contain any ingredient not found in milk.

(b) Skimmed milk dahi or curd means the product obtained from skimmed milk either of cow or buffalo by souring. It shall not contain any ingredient not found in milk.

The standard of purity of dahi or curd shall be the same as prescribed for the milk from which it is derived.

A.11.07. Condensed milk means milk which has been concentrated from full cream milk by removal of part of its water with or without the addition of sugar, and includes the article commonly known as 'evaporated milk' but does not include the article commonly known as 'dried milk' or 'milk powder'. It shall be free from preservatives other than sugar and contain at least 31 per cent of milk solids of which at least 9 per cent shall be fat.

A.11.08. Condensed skimmed milk means skimmed milk which has been concentrated by removal of part of its water with or without the addition of sugar. The total milk solids including milk fat shall not be below 26.0 per cent in the sweetened variety and 20 per cent in the unsweetened variety.

A.11.09. Chhanna means the product obtained by precipitating the curd from boiling whole milk of cow and buffalo by the addition of lactic or citric acids, or any other suitable coagulating agent.

Chhanna prepared from cow milk or buffalo milk shall contain a minimum of 15 per cent of milk fat.

A.11.10. Cream means that portion of milk rich in milk fat which has risen to the surface of milk on standing and has been removed or which has been separated from milk by centrifugal force. It shall contain not less than 40 per cent of milk fat and shall not contain any added substance. The fat separated from cream shall conform to the specification prescribed for ghee.

A.11.10.01. Dry whole Milk (Milk powder, Powdered milk, Powdered whole milk) shall contain not less than 95 per cent of milk solids and 26 per cent of milk fat.

A.11.10.02. Dry skim milk (Skim milk powder, Powdered skim milk) shall contain not less than 96 per cent of milk solids.

A.11.11. Ice cream means the frozen food made with cream, milk or other milk products, sweetened with sugar or honey and with or without (a) egg, (b) fruits, (c) nuts, (d) chocolates, (e) stabiliser not more than 0.5 per cent of the finished product and (f) permissible flavour or colour.

It shall contain not less than 36 per cent by weight of solids and 10 per cent by weight of milk fat except that when the ice-cream contains fruits or nuts or both, the content of milk fat may be proportionately reduced but not to less than 8.0 per cent by weight. It shall not contain any starch, artificial sweetening agent or any other extraneous matter. Ice-cream prepared from skimmed milk shall not contain less than 8.5 per cent of milk solids other than milk fat.

A.11.12. Mixed Ice-cream means the same as ice-cream in composition except that it may contain starch or any other inocuous filler. The fat content and total solid content should be the same as prescribed for ice cream.

A.11.13. Khoa means the product derived from milk of cow or buffalo by partial desiccation of water therefrom by the process of heating and it shall not contain any ingredient not found in milk. The moisture content of Khoa shall not exceed 10 per cent and the fat content shall not be less than 20 per cent.

A.12. Margarine means any article of food which resembles butter in consistency, appearance and moisture content but which does not contain more than 10 per cent of milk fat, the rest being animal fat or vegetable oil product or both. It shall contain at least 80 per cent of fat and not more than 16 per cent of moisture. It shall contain not less than 5 per cent of its weight of til oil.

A.13. Saffron means dried stigmata and tops of styles of Crocus sativus, and (a) it must not contain any foreign colouring matter or any other foreign matter, organic or inorganic, (b) it must not lose more than 12 per cent of its weight when dried at 100°C (212°F) to constant weight, and (c) it must contain not less than 5 per cent of petroleum ether extract.

A.14. Tea means tea derived exclusively from the leaves and buds of plants of the Camellia genus and the species. It shall conform to the following specifications:

(a) Total ash determined on tea dried to a constant weight at 100°C	5.0 to 8.0 per cent.
(b) Total ash soluble in boiling Distilled Water.	Not less than 40.0 per cent of total ash.
(c) Ash insoluble in Hcl.	Not more than 1.0 per cent.
(d) Extract obtained by boiling dry tea (dried at constant weight at 100°C) with 100 parts of distilled water for one hour under reflux.	Not less than 35 per cent.

(e) Alkalinity of soluble ash	Not less than 1.3 per cent and not more than 2 per cent expressed as K_2O.
(f) Crude fibre	Not more than 15 per cent.

A.15. Edible Common Salt means a cristalline solid, white or pale pink or light grey in colour, free from visible contamination with clay, grit and other extraneous adulterants and impurities. It shall not contain moisture in excess of 6 per cent of the weight of the undried sample. It shall contain on dry weight basis (a) at least 96.0 per cent by weight of sodium chloride (NaCl), (b) not more than 1.0 per cent by weight of matter insoluble in water and (c) not more than 3.0 per cent by weight of matter soluble in water other than sodium chloride.

A. V. VENKATASUBBAN,
Deputy Secretary to the Government of India.

NOTIFICATION.

No. L. Dis. 2154|54|DD. *29th December 1955.*

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between the Management of Vincent Match Factory Ltd., Perurkada and their workmen namely;—

1. Sri S. Soman, Vanian Vila Veedu, Vazhayila, Perurkada, Trivandrum.
2. Sri M. Krishnankutty, Pullankonam, Perurkada, Trivandrum.
3. Sri K. Kuttappan Pillai, Amirthavalli Puthen Veedu, Vattiyoorkavu, Trivandrum.
4. Sri K. Sivasankara Pillai, Cheenikonathu Veedu, Vattiyoorkavu, Trivandrum

received by Government on 12-12-1955 is hereby published under Section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947).

Government Secretariat,
Development Department,
Labour Section,
Trivandrum.

By order of His Highness
the Raj Pramukh,
V. V. Joseph,
Secretary to Government.

BEFORE

Sri K. N. Kunjukrishna Pillai, B. A., B. L.,
Industrial Tribunal, Trivandrum.

INDUSTRIAL DISPUTE No. 12 of 1954

Between

THE MANAGEMENT OF THE VINCENT MATCH FACTORY Ltd., PERURKADA

And

The workmen of the above concern namely:—

1. Sri S. Soman, Vanian Vila Veedu, Vazhayila, Perurkada, Trivandrum.
2. Sri M. Krishnankutty, Pullankonam, Perurkada, Trivandrum.
3. Sri K. Kuttappan Pillai, Amirthavalli Puthen Veedu, Vattiyoorkavu, Trivandrum.
4. Sri K. Sivasankara Pillai, Cheenikonathu Veedu, Vattiyoorkavu, Trivandrum.

Representation:

Sreemathi Bhagavathilekshmi Ammal— *Advocate on behalf of management.*

Sri Sudhakaran— *Advocate on behalf of the workmen.*

AWARD.

The Government by their Order L.2-2154|54|DD. dated 9-3-1954 referred certain disputes between the above parties to the Industrial Tribunal, Trivandrum and the same was

registered as Industrial Dispute No. 12 of 1954. Sri N. Raghavan Pillai filed the written statement on 27-4-1954 and the management of the Vincent Match Factory Ltd., Perurkada filed reply on 24-5-1954. On behalf of the workmen, 6 witnesses were examined and Ext. A. to Ext. D. were filed and on behalf of the management, 3 witnesses were examined and Ext. I to Ext. IV were filed. The issue to be decided is:—

> "Is the management of the Vincent Match Factory Ltd., Perurkada, justified in terminating the services of Sri M. Krishnaukutty, Pullankonam, Perurkada, Trivandrum, (2) Sri S. Soman, Vaniyanvila Veedu, Vazhayila, Perurkada, Trivandrum, (3) Sri K. Kuttappan Pillai, Amirthavally Puthen Veedu, Vattiyoorkkavu, Trivandrum; (4) Sri K. Sivasankara Pillai, Cheenikonathu Veedu, Vattiyoorkavu, Trivandrum?

To what reliefs are they entitled in case:

(i) the discharge is justified.
(ii) the discharge is not justified.

2. The Vincent Match Factory Ltd., is a small concern manufacturing veneers and splints situated at Perurkada in Trivandrum. The four persons named above were engaged in the concern. When they came for work as usual on 28-12-1953, it so happened— how it happened will be explained later— that they had no work. According to the management, those four persons (who will be mentioned as workmen) refused to do the usual work but demanded that they should be given work in the 'Round Saw' and on the refusal, they left the concern. The management put up a notice on the very same day *i. e.*, 28-12-1953 that unless they rejoined work within 3 days with proper explanation for refusal to do the allotted work on 28-12-1953, their services would be terminated. No explanation was offered. Both parties intimated their cases to the Labour Department and Labour Officer took up the matter. In the meanwhile, satyagraha was started which was stopped on 21-1-1954. Attempts at conciliation failed and the dispute was referred for adjudication..

3. Before entering into the justifiability or otherwise of the action taken by the management, I have to point out the salient principles laid down by the Labour Appellate Tribunal in the leading case restricting the jurisdiction of the Industrial Tribunal in interfering with the action of the management in similar circumstances. The decision of the Labour Appellate Tribunal in the Buckingham & Carnatic Mills Case reported in 1951-II-LLJ-314 has to be followed. In the course of the decision, it is said:

> "The power of the management to direct its internal administration, which includes the enforcement of discipline of the personnel cannot be denied, but with the emergence of modern concepts of social justice, that an employee should be protective against vindictive or

capricious action on the part of the management which may affect the security of his service, this power has to be subjected to certain restrictions but at the same time under interference by a Tribunal with administration and management should not be encouraged. It would thus be open to the Tribunal to examine the findings of the management on the charge of misconduct to assure itself that there is evidence to support the finding and that the decision of the management is a possible view on the evidence before it. In such a case, the Tribunal should refrain from substituting its own judgment for the judgment of the management, as in such matters the Tribunal does not act like a court of appeal but rather as a supervision body exercising what would ordinarily be regarded as powers of reversion for correction of basic errors which go to the roof of the matter and of perverse findings. Consequently any vindictive or capricious action on the part of the management or the fact that the trouble had been provoked by the action of the management, may be relevant factors for consideration in determining whether interference with the decision of the management is called for. The result, therefore, is that the decision of the management in relation to the charge against the employee will not prevail if:—

(a) There is want of *bonafides* or

(b) It is a case of victimisation or unfair labour practice or violation of principles of natural justice or

(c) There is basic error on facts or

(d) There has been a perverse finding on the materials".

4. Hence, I will consider whether the said action comes under one of the exceptions mentioned above.

5. The burden is on the workmen that the punishment inflicted is vitiated by one of the exceptions. The learned advocate, on behalf of the workmen, would rightly argue that victimisation is a mental attitude and it is very difficult to prove. It has to be presumed by circumstantial evidence. A very important item of circumstantial evidence is that to see whether the alleged reason for taking action against the worker is the real reason. Mr. Sudhakaran would urge that in this case it is not so and that no misconduct is alleged.

6. I will examine the question. The alleged reason against the workmen as stated in the reply statement of the management is that those 4 workmen refused to do their usual work when they came to the factory on 28-12-1953. They demanded the management to give work to all of them in the circular saw when the management refused to do so and asked them to do other sundry work which they were doing previously

they left the factory. The management on the very same day put up a notice asking them to return to work within 3 days after submitting explanation for abruptly leaving the factory. The workers did neither submit explanation nor return for work within the period and afterwards.. Hence for the working of the factory, the management appointed new workmen on the impression that the 4 workers voluntarily left the work. This being the alleged reason, I have to see wether this is the real reason. According to the workmen, as soon as the workmen presented themselves for work on 28-12-1953, the management asked them to do some work unconnected with factory namely to carry some timbers to the house of the Proprietor and on the reasonable refusal to do the work, the management refused to employ them. Both parties have adduced evidence in support of their contentions.

7. Over and above the three of the workmen, two other workers who are in service and another stranger were examined on behalf of the workmen. WW2, Sri Krishna Pillai is the brother of Sri Kutten Pillai one of the four and WW1 Sry. Sarada was admittedly taken by WW2 to give evidence, WW3 is an outsider who was once employed by the Proprietor and now completely unemployed and he got the information from WW1. Hence, I do not think that I can place more reliance on the evidence of WW1, WW2 and WW3 than that of the three workers who were examined as WW4, WW5 and WW6. In such cases, I do not place much importance to the minute evaluation of the sworn deposition of witnesses as in the case of criminal cases but on certain broad circumstances to know the mental attitude of parties on the date of incidents and what had really happened and the reasons for it.

8. Admittedly, the Proprietor of the concern was staying in a rented house at Perurkada in Trivandrum and his residence is about half a mile from the factory. Why should the Proprietor ask the workmen to carry heavy logs of timber from the factory to his residence especially when the Proprietor had lorries and other vehicle of conveyance? To ask the workers to do other work unconnected with factory work was to cause dislocation in the working of the factory especially when there was no excess of workmen. It is unlikely that the Proprietor might have asked the workmen to do some other work unconnected with factory work knowing fully well that he had punished two of them previously and that there is a Union in which these workmen were members. The report of the Labour Officer to the Assistant Labour Commissioner is also a relevant document to know what really happened on that day. On the motion of the management, I have asked the Labour Officer to produce the whole file regarding this dispute and the Labour Officer was examined as EW1 and it is marked as Ext. IV. Pages 8 and 9 of Ext. IV is the report of the Labour Officer who went to the factory on 4-1-1955 to enquire about the dispute. On a reading of this report, it strikes me that such an immediate spot enquiry

report is of considerable importance to come to certain conclusion. He has concluded by saying "It was found that on 28-12-1953, the 4 workers, Sivasankaran, Soman, Krishnankutty and Kuttappau refused to carry out the usual work they were doing till the previous day. Till then they were doing all and odd works entrusted to them by the management during the stipulated working hours. The workers were asked to work in the 'Peeling machine' and they refused to do so. It seems that they insisted that they would do only Round Saw work. I examined two workers: Mani and Krishna Pillai Krishna Pillai is a brother of one of the 4 workers in question. They vouchsafed to the fact that these persons were doing all work prior to 28-12-1953 and that they did refuse to do work allotted to them by the management on 28-12-1953. The workers themselves admitted to me about this conduct. They contended that they were doing, Round Saw work (*i. e.* cross-cutting, removing bulk, supplying piece to peeling machine) some 5 months back on piece rate basis. Since they demanded higher rate, which was refused by the management, they accepted daily wages and carried on the work entrusted to them by the management from day to day during the last 5 months and that they should be given the work they were doing on piece rate". It is to be noted that the Labour Officer who was examined as EW1 was not cross-examined on this and hence his testimony stands uncontradicted. The attempt of the workers that the management asked to do other work stands unproved. There is absolutely no reason to disbelieve the report of the Labour Officer made on 4-1-1954 just within one week of the incident. The evidence adduced by the management give further corroboration to the finding of the Labour Officer and I have no hesitation to hold that the 4 workers refused to do work on 28-1-1953 on unjustifiable grounds. The Labour Officer has also stated in the very same report that a notice asking the workers to join duty within 3 days was exhibited in the notice-board and they were further asked to explain their misconduct. A copy of the notice was sent to the Labour Officer who had received it on 28-12-1953 itself. The Proprietor need not have sent such a notice otherwise. It is admitted that the workers neither presented themselves within 3 days nor submitted explanation. Hence, I conclude that the alleged reason for terminating the services is the real reason.

9. The further allegation that they were punished because of trade union ativities is strongly opposed on the ground that the management did not know whether the workmen were active trade unionists or not. I do not believe the version of the management but there is no evidence to show that they were victimised. Even a strong trade unionist can be punished if he does any misconduct of this kind.

10. Mr. Sudbakaran would argue that there was no enquiry before punishment and even an order of termination of notice was not issued. Here the facts are that the workers left the

factory neglecting the work and even though they were asked to explain and join duty they never came to do so and hence under the circumstances the management should not be found fault with. The learned Advocate would rely such on the deposition of the manager of the factory to say that the employer's attitude was highly anti-labour. That can be decided only if the Proprietor himself was examined and it would be unsafe to read the attitude of the Proprietor by the examination of the manager. Relying on the decision as reported in 1953-I-LLJ-257, the learned advocate would forcibly argue that the action of the management is "shocking the conscience" of any person. I must point out that the action of the workmen in refusing to obey the lawful orders of the management and leaving the work spot is a serious misconduct and even in spite of notice, they continued to persist in the same unreasonable attitude. The punishment given is only a justifiable one even though the management had the right to view the matter more leniently.

11. The lucid and forcible arguments of Sri Sudhakaran is not supported by the evidence in this case and I have to hold that the action of the management is justifiable. Regarding the relief, it has to be stated that I do not encourage indiscipline and similar attitude of workmen. But, in this case, taking into consideration the serious situation on account of unemployment, I hold that the workmen should be paid at the rate of Rs. 100 each over and above the arrears of wages and other dues if any. The amount should be paid within 6 weeks.

12. This award comes into effect from the date of publication of this award under Section 17 of the Act.

Trivandrum, 9-12-1955.

K. N. KUNJUKRISHNA PILLAI,
Industrial Tribunal.

APPENDIX.

Workers' Witnesses.

1. Sry. Sarada.
2. Sri Krishna Pillai.
3. ,, Sadasivan.
4. ,, R. Sukumaran.
5. ,, K. Kuttan Pillai.
6. ,, Sivasankaran Nair.

Employer's Witnesses.

1. Sri Ramaswamy Iyer.
2. ,, Manuel.
3. ,, Mareendran.

Exhibits on behalf of workmen.

A. Letter from the Management to the Union dated 14-8-1953.

B. Letter from the management dated 14-9-1953.

B1. Cover in which Ext. B was sent.

C. Registered notification from the factory to the Union dated 14-1-1954.

C1. Cover in which Ext. C. was sent.

D. Memorandum of settlement dated 21-8-1953.

Exhibits on behalf of management.

I. Letter No. 473|53|12-11-1953 from the factory to the Labour Commissioner.

II. Letter No. 661|53|28-12-1953 from the factory to the Labour Commissioner.

III. Notice from the management dated 28-12-1953.

IV. File from the Labour Commissioner.